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*Attorney for Defendant Lance Hunter*

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF UTAH, CENTRAL DIVISION**

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DERIVE POWER, LLC; and DERIVE SYSTEMS, INC.,

Plaintiffs,

v.

EZ LYNK, SEZC; H&S PERFORMANCE LLC; THOMAS WOOD; LANCE HUNTER; TECHIT, LLC; GDP TUNING, LLC; and POWER PERFORMANCE ENTERPRISES, INC.,

Defendants.

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Case No. 2:16-cv-01066

Judge Bruce S. Jenkins

**ANSWER OF DEFENDANT LANCE HUNTER**

Defendant, Lance Hunter (“Hunter”), hereby answers Plaintiffs’ Derive Power, LLC and Derive Systems, Inc., Complaint as follows:

**ANSWER**

**Nature of Dispute**

1. Deny
2. Hunter denies the allegations of paragraph 2 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

3. Hunter denies the allegations of paragraph 3 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
4. Hunter denies the allegations of paragraph 4 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
5. Hunter denies the allegations of paragraph 5 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
6. Hunter denies the allegations of paragraph 6 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
7. Hunter denies the allegations of paragraph 7 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

### **Parties**

8. Hunter denies the allegations of paragraph 8 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
9. Hunter denies the allegations of paragraph 9 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

10. Hunter denies the allegations of paragraph 10 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
11. Hunter denies the allegations of paragraph 11 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
12. Hunter denies the allegations of paragraph 12 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
13. Deny.
14. Hunter denies the allegations of paragraph 14 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
15. Hunter denies the allegations of paragraph 15 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
16. Hunter denies the allegations of paragraph 16 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

#### **Related Individuals and Entities**

17. Hunter denies the allegations of paragraph 17 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

18. Hunter denies the allegations of paragraph 18 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
19. Hunter denies the allegations of paragraph 19 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
20. Hunter denies the allegations of paragraph 20 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
21. Hunter denies the allegations of paragraph 21 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
22. Hunter denies the allegations of paragraph 22 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
23. t Hunter denies the allegations of paragraph 23 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
24. Hunter denies the allegations of paragraph 24 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Jurisdiction and Venue**

25. Hunter denies the allegations of paragraph 25 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

26. Hunter denies the allegations of paragraph 26 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

27. Hunter denies the allegations of paragraph 27 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

### **Background Facts**

28. Hunter denies the allegations of paragraph 28 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

29. Hunter denies the allegations of paragraph 29 on the basis of lack of info Hunter denies the allegation of paragraph 2 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

30. Hunter denies the allegations of paragraph 30 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

31. Hunter denies the allegations of paragraph 31 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

32. Hunter denies the allegations of paragraph 32 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
33. Hunter denies the allegations of paragraph 33 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
34. Hunter denies the allegations of paragraph 34 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
35. Hunter denies the allegations of paragraph 35 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
36. Hunter denies the allegations of paragraph 36 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
37. Hunter denies the allegation of paragraph 37 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
38. Hunter denies the allegations of paragraph 38 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

39. Hunter denies the allegations of paragraph 39 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
40. Hunter denies the allegations of paragraph 40 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
41. Hunter denies the allegations of paragraph 41 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
42. Hunter denies the allegations of paragraph 42 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
43. Hunter denies the allegations of paragraph 43 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
44. Hunter denies the allegations of paragraph 44 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

#### **Derive's Intellectual Property**

45. Hunter denies the allegations of paragraph 45 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

46. Hunter denies the allegations of paragraph 46 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
47. Hunter denies the allegations of paragraph 47 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
48. Hunter denies the allegation of paragraph 48 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
49. Hunter denies the allegations of paragraph 49 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
50. Hunter denies the allegations of paragraph 50 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Defendants' Theft of Derive Intellectual Property**

51. Hunter denies the allegations of paragraph 51 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
52. Hunter denies the allegations of paragraph 52 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

53. Hunter denies the allegations of paragraph 53 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
54. Hunter denies the allegations of paragraph 54 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
55. Hunter denies the allegations of paragraph 55 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
56. Hunter denies the allegations of paragraph 56 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
57. Hunter denies the allegations of paragraph 57 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
58. Hunter denies the allegations of paragraph 58 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
59. Hunter denies the allegations of paragraph 59 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

60. Hunter denies the allegation of paragraph 60 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
61. Hunter denies the allegations of paragraph 61 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
62. Hunter denies the allegations of paragraph 62 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
63. Hunter denies the allegations of paragraph 63 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
64. Hunter denies the allegations of paragraph 64 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
65. Hunter denies the allegations of paragraph 65 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
66. Hunter denies the allegations of paragraph 66 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
67. Deny.

68. Hunter denies the allegations of paragraph 68 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Count I – Copyright Infringement**

69. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

70. Hunter denies the allegations of paragraph 70 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

71. Hunter denies the allegations of paragraph 71 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

72. Hunter denies the allegations of paragraph 72 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

73. Hunter denies the allegations of paragraph 73 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

74. Hunter denies the allegations of paragraph 74 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

75. Hunter denies the allegations of paragraph 75 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

76. Hunter denies the allegations of paragraph 76 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

77. Hunter denies the allegations of paragraph 77 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Count II – Misappropriation of Trade Secrets**

78. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

79. Hunter denies the allegations of paragraph 79 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

80. Hunter denies the allegations of paragraph 80 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

81. Hunter denies the allegations of paragraph 81 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

82. Hunter denies the allegations of paragraph 82 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
83. Hunter denies the allegations of paragraph 83 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
84. Hunter denies the allegations of paragraph 84 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
85. Hunter denies the allegations of paragraph 85 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
86. Hunter denies the allegations of paragraph 86 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
87. Hunter denies the allegations of paragraph 87 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
88. Hunter denies the allegations of paragraph 88 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

89. Hunter denies the allegations of paragraph 89 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

90. Hunter denies the allegations of paragraph 90 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Count III – Misappropriation of Trade Secrets**

91. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

92. Hunter denies the allegations of paragraph 92 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

93. Hunter denies the allegations of paragraph 93 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

94. Hunter denies the allegations of paragraph 94 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

95. Hunter denies the allegations of paragraph 95 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

96. Hunter denies the allegations of paragraph 96 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
97. Hunter denies the allegations of paragraph 97 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
98. Hunter denies the allegations of paragraph 98 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
99. Hunter denies the allegations of paragraph 99 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
100. Hunter denies the allegations of paragraph 100 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
101. Hunter denies the allegations of paragraph 101 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.
102. Hunter denies the allegations of paragraph 102 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

103. Hunter denies the allegations of paragraph 103 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Count IV – Unfair Competition as to Bully Dog Trade Dress**

104. Hunter denies the allegations of paragraph 104 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

105. Hun Hunter denies the allegations of paragraph 105 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

106. Hunter denies the allegations of paragraph 106 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

107. Hunter denies the allegations of paragraph 107 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

108. Hunter denies the allegations of paragraph 108 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

109. Hunter denies the allegations of paragraph 109 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Count V - Fraud**

110. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

111. Hunter denies the allegations of paragraph 111 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

112. Hunter denies the allegations of paragraph 112 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

113. Hunter denies the allegations of paragraph 113 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

114. Hunter denies the allegation of paragraph 114 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

115. Hunter denies the allegations of paragraph 115 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

116. Hunter denies the allegations of paragraph 116 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

117. H Hunter denies the allegations of paragraph 117 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

118. Hunter denies the allegations of paragraph 118 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Breach of Contract (Against Defendant H&S)**

119. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

120. Hunter denies the allegations of paragraph 120 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

121. Hunter denies the allegations of paragraph 121 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

122. Hunter denies the allegations of paragraph 122 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

123. Hunter denies the allegations of paragraph 123 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Breach of Contract (Against Defendant Wood)**

124. Hunter denies the allegations of paragraph 124 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

125. Hunter denies the allegations of paragraph 125 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

126. Hunter denies the allegations of paragraph 126 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

127. Hunter denies the allegations of paragraph 127 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

128. Hunter denies the allegations of paragraph 128 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Count VIII – (Against Defendant Hunter)**

129. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

130. Hunter admits that he signed agreements governed by Idaho law but otherwise denies the allegations of paragraph 130.

131. Deny.

132. Deny.

133. Deny.

**Count IX – Breach of Duty of Loyalty**

134. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

135. Hunter denies the allegations of paragraph 135 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

136. Hunter denies the allegations of paragraph 136 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

137. Hunter denies the allegations of paragraph 137 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

138. Hunter denies the allegations of paragraph 138 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

**Count X – Tortious Interference with Contract**

139. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

140. Hunter denies the allegations of paragraph 140 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

141. Hunter denies the allegations of paragraph 141 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

142. Hunter denies the allegations of paragraph 142 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

143. Hunter denies the allegations of paragraph 143 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

144. Hunter denies the allegations of paragraph 144 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

145. Hunter denies the allegations of paragraph 145 on the basis of lack of information and knowledge sufficient to form a belief as to the truth of the allegations.

#### **Count XI - Conspiracy**

146. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

147. Deny.

148. Deny.

149. Deny.

#### **Count XII – Unfair Competition**

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150. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

151. Deny.

152. Deny.

**Count XIII – Unjust Enrichment**

153. Hunter incorporates by reference his answers to the preceding paragraphs as if fully set forth herein.

154. Deny.

155. Deny.

156. Deny.

157. Deny.

**AFFIRMATIVE DEFENSES**

Hunter asserts the following affirmative defenses without assuming the burden of proof.

**FIRST DEFENSE**

Plaintiffs' claims are barred, in whole or in part, because the Complaint fails to state a claim against Hunter upon which relief may be granted.

**SECOND DEFENSE**

Plaintiffs' claims are barred, in whole or in part, because Plaintiffs' material breaches of the parties' agreements excused any further performance by Hunter.

**THIRD DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of unclean hands, fraud, or other inequitable conduct.

**FOURTH DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver, estoppel, and/or laches.

**FIFTH DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by the misrepresentations and/or fraudulent actions of Plaintiffs and other individuals or entities associated with Plaintiffs.

**SIXTH DEFENSE**

Plaintiffs's claims are barred, in whole or in part, because Plaintiffs failed to mitigate their damages, if any.

**SEVENTH DEFENSE**

Plaintiffs' claims are barred, in whole or in part, because Hunter's actions were justified and/or privileged.

**EIGHTH DEFENSE**

Plaintiffs' claims are barred, in whole or in part, by virtue of the doctrine of accord and satisfaction.

**NINTH DEFENSE**

Plaintiffs have waived their right to a jury trial by contract.

**REQUEST FOR RELIEF**

Hunter denies that Plaintiffs are entitled to any relief and respectfully requests that the Complaint be dismissed with prejudice and upon the merits, that Plaintiffs take nothing thereby,

and that Hunter be awarded his costs and attorney's fees and for such other and further relief as the Court may deems just and proper.

DATED this 7<sup>th</sup> day of November, 2016.

WES FELIX LAW, P.C.

*/s/ Wesley D. Felix*  
Wesley D. Felix  
*Attorney for Defendant Lance Hunter*